

FISCAL NOTE

Bill #: SB0490

Title: Clarify retainage includes relationship
between contractor and subcontractor

**Primary
Sponsor:** Bill Glaser

Status: As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:	0	0
Revenue:	0	0
Net Impact on General Fund Balance:	0	0

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	x	Significant Local Gov. Impact	x		Technical Concerns
	x	Included in the Executive Budget		x	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. There is no fiscal impact to state government.
2. MCA 17-8-242 allows 30 days for payment of receipt of supplies or services by an agency. This bill creates an inequity in that it requires contractor payments to be paid in half the time.
3. After receipt of a pay request, the A & E Division or A & E's representative (consultant) is required by contract to verify the validity of the pay request. To verify the validity of the pay request requires an inspection trip to the project to substantiate the stage of construction, materials in-place, and stored materials. Further analysis of comparing the project schedule to the schedule of values is also required.
4. The consultant approves, modifies or requires the contractor to correct requests if discrepancies are found and sends the approved pay requests to the division for payment upon completion of their verification and analysis.

(continued)

5. It currently takes the consultant an average of seven days to approve the contractor's pay request (from the date of the contractor's signature), based on January 1999 data.
6. A & E contracts require the consultant to act upon the request within seven days of receipt.
7. Upon receipt from the consultant, the pay request is logged-in and delivered to the division project manager. The pay requests are checked again for math errors and verified against the project budget. If the project manager should discover a discrepancy, calls are made to the contractor and the consultant. After the project manager authorizes the contractor payment, the request is forwarded to the accounting section for processing.
8. It currently takes the A & E Division an average of approximately 14 days to process contractor payments (from the day the request is stamped-in the office to the day it is input to the system), based on January 1999 data.
9. It currently takes an average of approximately 25 to 27 days (depending on the mail) for a contractor to receive payment (from the day the contractor signs the pay request to the day the check is received), based on January 1999 data.
10. Disputes will arise concerning the validity of pay requests (as they occasionally do at present), but new potential for litigation will exist due to this bill.
11. Attempts to meet the standard proposed by this bill would reduce the ability of the A & E Division to adequately administer contracts and/or require payment of interest, which would reduce ability to construct and maintain state buildings.

TECHNICAL NOTES:

This bill conflicts with 17-8-241 and 17-8-242, MCA, which state:

“17-8-241. Definitions relating to interest assessment. As used in 17-8-242 through 17-8-244, the following definitions apply: (1) “Services” means the furnishing of labor, time, or effort, including construction services, purchased or contracted for by the state or any agency thereof. (2) “Supplies” means all personal property purchased, leased, or contracted for by the state or any agency thereof, including leases of equipment. The term also includes leases of buildings or other real property by the state or any agency thereof.”

“17-8-242. Interest assessed on amounts due. (1) Except as provided in 17-8-244, a state agency shall pay simple interest at the rate of 0.05% each day on amounts due for supplies and services received if the agency fails to make time payment. (2) For purposes of this section, payment is timely if a warrant is mailed or is otherwise made available to the payee when due and for the amount specified in the applicable contract or agreement. If no date is specified in the applicable contract or agreement, payment is timely if paid within 30 days after receipt of a properly completed invoice, addressed to the payer agency, or receipt of the supplies or services by the agency, whichever is later.”.